

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )  
 )  
Connect America Fund – Alaska Plan ) WC Docket No. 16-271

**MEMORANDUM OPINION AND ORDER**

**Adopted: March 18, 2020**

**Released: March 18, 2020**

By the Commission:

**I. INTRODUCTION**

1. In 2016, the Commission adopted the *Alaska Plan Order* to accelerate deployment of fixed and mobile voice and broadband service in high-cost areas of Alaska by providing \$1.5 billion in universal service support to participating carriers over a 10-year term.<sup>1</sup> In exchange for receiving funding, each provider submitted for approval an individualized performance plan that identified the number of people or locations it would serve in remote parts of Alaska at the 5-year and 10-year milestones, the service speeds it would offer, and the type of middle mile (e.g., fiber, satellite) facilities it would use to deploy service.<sup>2</sup> The Wireless Telecommunications Bureau and Wireline Competition Bureau approved all performance plans in December 2016, and they repeatedly reassess if the service commitments in those plans should be adjusted based in part on changed circumstances.<sup>3</sup>

2. In order to monitor the progress of participating carriers in meeting their respective service commitments and provide oversight for how funds are being used, it is necessary for the Commission to know, *inter alia*, the locations of middle-mile fiber and microwave infrastructure of Alaska Plan participants. The *Alaska Plan Order* therefore required participating carriers to submit maps of their fiber and microwave networks and update these maps each calendar year if new middle-mile

<sup>1</sup> *Connect America Fund; Universal Service Reform–Mobility Fund; Connect America Fund–Alaska Plan*, WC Docket Nos. 10-90, 16-271, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 10139 (2016) (*Alaska Plan Order*).

<sup>2</sup> Mobile wireless participants were also required to break out commitments by last-mile technology used. *See Alaska Plan Order*, 31 FCC Rcd at 10166-67, para. 85 (requiring wireless participants to separate commitments by level of technology: 2G/Voice, 3G, or 4G LTE); *see also* 47 CFR § 54.317(f).

<sup>3</sup> *See Wireless Telecommunications Bureau Approves Performance Plans of the Eight Wireless Providers That Elected to Participate in the Alaska Plan*, WC Docket No. 16-271, Public Notice, 31 FCC Rcd 13317, 13320-23, Appx. A (WTB 2016); *Wireline Competition Bureau Authorizes Alaska Plan Support for 13 Alaskan Rate of Return Carriers*, WC Docket Nos. 10-90 and 16-271, Public Notice, 31 FCC Rcd 13347, 13351-53 Appx. B (WCB 2016). Subsequently, the Bureaus have accepted updated performance plans from some participants. *See Wireless Telecommunications Bureau Approves ASTAC's and GCI's Revised Performance Plans Pursuant to the Alaska Plan Order*, WC Docket No. 16-271, Public Notice, DA 19-1264 (rel. Dec. 12, 2019); *Biennial Review for the Alaska Plan Wireline Carriers*, WC Docket Nos. 10-90, 16-271, Public Notice, DA 19-1263 (rel. Dec. 12, 2019) (“In conducting this Biennial Review, the Bureau held discussions with the carriers and/or assessed of the carriers’ annual location and middle-mile map filings.”).

facilities were deployed.<sup>4</sup> The Commission delegated authority to the Bureaus to specify the format for these maps.<sup>5</sup>

3. In September 2017, the Bureaus instructed Alaska carriers to follow the National Standard for Spatial Data Accuracy and to submit maps of their microwave and fiber locations to within 7.6-meters of accuracy with a 95% confidence level, which is an accuracy standard widely used in other governmental maps, such as those used by FEMA and the Census Bureau.<sup>6</sup> In October 2017, the Alaska Telephone Association (ATA) filed a Petition for Reconsideration of the “mapping reporting requirements” outlined in the *2017 Map Instructions Public Notice*.<sup>7</sup> In a February 2018 *Order on Reconsideration*, the Bureaus affirmed the mapping reporting requirements, including the 7.6-meter standard.<sup>8</sup> No one sought further review of the Bureaus’ *Order on Reconsideration*,<sup>9</sup> and the time for challenging that decision expired on April 23, 2018.<sup>10</sup>

4. As a recipient of millions of dollars in Alaska Plan funding, GCI Communication Corp. and its wholly owned affiliates, United Utilities, Inc., and Yukon Telephone Co. (collectively, GCI), like other participating Alaska Plan carriers, are required to provide maps of their fiber and microwave networks. Unlike other Alaska plan carriers, most of whom have fully complied with the 7.6-meter accuracy standard,<sup>11</sup> GCI has failed to provide a single land-based fiber link at this accuracy standard. In

<sup>4</sup> *Alaska Plan Order*, 31 FCC Rcd at 10146-48, 10156, 10158, 10166-67, 10172-73, paras. 17, 24, 52, 60-61 (noting several rate-of-return carriers cannot commit to offering broadband services at 10/1 Mbps “due to limitation in access to middle mile infrastructure”), 85-86 (requiring last-mile commitments be sub-divided by available middle mile and allowing lesser commitments where there is a lack of terrestrial middle mile), 102 (adding additional requirements where the last-mile infrastructure is dependent on satellite backhaul, requiring LTE at 10/1 Mbps where terrestrial backhaul becomes available, and requiring participants submit fiber and microwave network maps for ongoing assessment of commitments).

<sup>5</sup> *Id.* at 10172-73, paras. 60, 102.

<sup>6</sup> *Wireline Competition Bureau and Wireless Telecommunications Bureau Release Instructions for Filing Terrestrial Middle-Mile Network Maps*, WC Docket No. 16-271, Public Notice, 32 FCC Rcd 6863, 6867 (WTB/WCB 2017) (*2017 Map Instructions Public Notice*) (requiring that accuracy “must meet National Standard for Spatial Data Accuracy: accurate to within 7.6m CE95 (FGDC-STD-007, 3-1998)”). “CE” stands for Circular Error: the circle around the data point. See U.S. Census Bureau, About the 2010 Census TIGER/Line Shapefiles at 2-5 (2010), <https://www2.census.gov/geo/pdfs/maps-data/data/tiger/tgrshp2010/TGRSHP10SF1CH2.pdf> (7.6 meters accuracy at CE95 “requires that 95 percent of the time, the distance between the sample control points coordinates and their corresponding street centerline file intersection points not exceed 7.6 meters, i.e., a file point will fall within a radius of 7.6 meters of its corresponding control point.”); see also Federal Geographic Data Committee, National Spatial Data Infrastructure, Part 3: National Standard for Spatial Data Accuracy (1998), <https://www.fgdc.gov/standards/projects/FGDC-standards-projects/accuracy/part3/chapter3>.

<sup>7</sup> Petition for Reconsideration of Alaska Telephone Association, WC Docket No. 16-271 (filed Oct. 10, 2017) (ATA 2017 Petition for Reconsideration).

<sup>8</sup> See *Connect America Fund et al.*, WC Docket No. 16-271, Order on Reconsideration, 33 FCC Rcd 2068, 2076, para. 21 (WCB/WTB 2018) (*Order on Reconsideration*) (concluding that the 7.6-meter standard “is a commonly-used mapping standard for Commission high-cost data, is necessary for the Bureaus to maintain compatibility with census boundary and road data for the census-block based Alaska Plan, and will allow the Bureau to fully identify duplicative facilities.”)

<sup>9</sup> See generally WC Docket No. 16-271 (containing no appeal of the Bureaus’ *Order on Reconsideration*).

<sup>10</sup> See 47 CFR § 1.115(d) (requiring applications for review to be filed within 30 days of public notice of the challenged action); 83 Fed. Reg. 12755 (Mar. 23, 2018) (providing public notice of the Order on Reconsideration); see also 47 U.S.C. § 155(c)(4) (requiring the filing of applications for review within the time specified by the Commission); 47 CFR § 1.4(b) (providing how computation of time is to be determined).

<sup>11</sup> See *Waiver Denial Order*, 34 FCC Rcd at 1047, para. 7. Of the ten companies that reported owning fiber links in their March 2019 middle-mile map filing, three companies claimed in their filings that they could not certify to all of (continued....)

February 2019, over nine months after the deadline for seeking review of the accuracy standard had passed, ATA filed a request for a blanket waiver of the 7.6-meter standard for all land-based fiber links on behalf of all its members, including those that already had complied with the standard. The Bureaus denied this waiver request in a March 2019 *Waiver Denial Order*, in which they found that ATA had failed to meet the waiver standard because its request was overly broad, failed to show that the 7.6-meter standard was infeasible, or that it resulted in individualized hardship on behalf of its members—many of whom had already certified to the 7.6-meter standard ahead of schedule.<sup>12</sup> In April 2019, GCI filed the instant Application for Review urging us to reverse the Bureaus’ denial of that waiver request.<sup>13</sup> Neither ATA nor any other person sought review of the *Waiver Denial Order*.<sup>14</sup>

5. We deny GCI’s AFR; we affirm the Bureaus’ 2019 *Waiver Denial Order* and find that they properly denied a waiver for lack of good cause because the request failed to provide facts and circumstances warranting relief.<sup>15</sup> GCI has failed to demonstrate that the *Waiver Denial Order* goes against established law or precedent or contains factual errors that warrant reversal.<sup>16</sup> GCI has not made a credible showing that complying with the 7.6-meter accuracy standard would impose an undue hardship or be inequitable for itself or any individual Alaska Plan participant, nor has it shown that eliminating or modifying the accuracy standard would lead to more effective implementation of the Alaska Plan.<sup>17</sup>

## II. BACKGROUND

6. When the Commission adopted the *Alaska Plan Order*, allocating \$1.5 billion of universal service funds to expand and improve broadband in high-cost areas of Alaska, it recognized that lack of middle mile facilities—i.e., communications infrastructure that connects Alaska’s last-mile

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their links or nodes at the 7.6-meter accuracy standard. *See generally* GCI Communications Corp., Confidential Document, WC Docket No. 16-271 (filed Mar. 1, 2019) (filing in the docket because it could not certify to the 7.6-meter accuracy standard); Matanuska Telephone Association, Confidential Document, WC Docket No. 16-271 (filed Mar. 1, 2019); ASTAC Wireless, LLC, Confidential Document, WC Docket No. 16-271 (filed Mar. 1, 2019). The other seven companies have certified to *all* of their nodes and links as meeting the 7.6-meter requirement, and ASTAC, which has provided *some* of its land-based fiber links at 7.6 meters of accuracy, has indicated verbally to Bureau staff that it will be fully in compliance by the March 2020 filing.

<sup>12</sup> *See Waiver Denial Order*, 34 FCC Rcd at 1047, paras. 7-8.

<sup>13</sup> GCI Application for Review, WC Docket No. 16-271, at 2 (filed Apr. 1, 2019) (GCI AFR).

<sup>14</sup> NTCA, NCTA, ACA, ATA, and WTA filed comments in support of GCI’s AFR that either substantially repeat the same arguments raised by GCI or challenge the *Order on Reconsideration*. *See* Letter from Michael R. Romano, Senior Vice President—Industry Affairs & Business Development, and Brian J. Ford, Director of Industry Affairs, NTCA—The Rural Broadband Association, WC Docket No. 16-271 (filed Apr. 16, 2019) (NTCA *Ex Parte*); Letter from Steven F. Morris and Jennifer McKee, NCTA—The Internet & Television Association, and Ross Lieberman, ACA Connects—America’s Communications Association, WC Docket No. 16-271 (filed Apr. 16, 2019) (NCTA & ACA *Ex Parte*); Letter from Christine O’Connor, Executive Director, Alaska Telecom Association, WC Docket No. 16-271 (filed Apr. 16, 2019) (ATA *Ex Parte*); Letter from Derrick B. Owens, Senior VP of Government & Industry Affairs, WTA—Advocates for Rural Broadband, and Gerald J. Duffy, Regulatory Counsel, Blooston, Modkofsky, Dickens, Duffy & Pendergast, LLP, WC Docket No. 16-271 (filed Apr. 24, 2019) (WTA *Ex Parte*). Their arguments are fully addressed herein and do not change our conclusion.

<sup>15</sup> *Waiver Denial Order*, 34 FCC Rcd at 1047, para. 7.

<sup>16</sup> Because we reject GCI’s arguments on the merits, we need not address the questions whether: (1) the Bureaus lacked delegated authority to address GCI’s waiver request, or (2) whether that issue involves “questions of fact or law upon which [the Bureaus have] been afforded no opportunity to pass.” 47 U.S.C. § 155(c)(5); 47 CFR § 1.115(c); *see, e.g., MSG Radio, Inc. et al.*, Memorandum Opinion and Order, 29 FCC Rcd 13256, 13257, para. 3, n.9 (2014).

<sup>17</sup> *Waiver Denial Order*, 34 FCC Rcd at 1047, para. 8.

infrastructure to the Internet—is the significant barrier to broadband service in Alaska.<sup>18</sup> Maps of existing infrastructure were submitted in the record before the Commission adopted the *Alaska Plan Order*, but they were not detailed enough to identify all of the middle-mile weaknesses.<sup>19</sup> To obtain more detail and to identify the weak links between last-mile service and the Internet, the *Alaska Plan Order* required participants to provide the Commission with “fiber network maps” and “microwave network maps.”<sup>20</sup> As the Commission explained, accurate maps of fiber and microwave middle-mile facilities “actually deployed” were needed for the Commission’s ongoing assessment of participant commitments and accountability and oversight of the Alaska Plan.<sup>21</sup> The Commission directed the Wireline Competition Bureau to “monitor carriers more closely” and authorized it to revise carriers’ deployment obligations to provide new or better service if carriers deployed additional capacity, i.e., middle-mile facilities, or gained access to new infrastructure.<sup>22</sup>

7. The Bureaus released a Public Notice in September 2017 with instructions on how to create these maps. This Public Notice included a requirement that such maps be accurate to within 7.6 meters, 95% of the time.<sup>23</sup> This is the same level of accuracy used in the Census Bureau road and boundary data, the maps used to delineate Congressional districts, and the Federal Emergency Management Agency (FEMA) base map for flood mapping.<sup>24</sup>

8. In October 2017, ATA filed a Petition for Reconsideration of the 7.6-meter accuracy requirement claiming, among other things, that the initial March 2018 deadline was unrealistic because meeting the accuracy standard would require on-the-ground site inspections that could not be completed during the approaching winter months.<sup>25</sup> ATA also argued that the 7.6-meter standard was not needed

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<sup>18</sup> See *Alaska Plan Order*, 31 FCC Rcd at 10148, 10156, 10158, 10165-67, 10172-73, paras. 24, 52, 60-61, 81, 85-86, 102; *Order on Reconsideration*, 33 FCC Rcd at 2072, para. 10 (observing that the *Alaska Plan Order*’s terms related to middle mile indicate the terms “are used to describe the entire connection between the last mile and Internet gateway.”).

<sup>19</sup> See, e.g., Letter from Christine O’Connor, Executive Director, ATA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90, at 6-8 (filed Feb. 12, 2016) (providing high-level middle-mile maps); Connect Alaska, Final Grant Report, App. 1 at 69 (May 2015), [https://www.connectak.org/sites/default/files/connected-nation/alaska\\_final\\_grant\\_report\\_final\\_including\\_appendix.pdf](https://www.connectak.org/sites/default/files/connected-nation/alaska_final_grant_report_final_including_appendix.pdf).

<sup>20</sup> *Alaska Plan Order*, 31 FCC Rcd at 10158, 10172-73, paras. 60, 102; see also *Order on Reconsideration*, 33 FCC Rcd at 2072-74, 2078, paras. 8-14, 26 (observing that the terms used in context—including “middle mile,” “backhaul,” “fiber network,” and “microwave network”—meant that the *Alaska Plan Order* sought maps for “the entire connection between the last mile and Internet gateway” to enable identification of the “‘weak-links’ in carriers’ networks that affect carriers’ current and future commitments.”).

<sup>21</sup> *Alaska Plan Order*, 31 FCC Rcd at 10172-73, paras. 100-02.

<sup>22</sup> 47 CFR § 54.317(f); *Alaska Plan Order*, 31 FCC Rcd at 10158, 10166-67, 10172-73, paras. 62, 85, 102; *Order on Reconsideration*, 33 FCC Rcd at 2070, para. 3.

<sup>23</sup> *2017 Map Instructions Public Notice*, 32 FCC Rcd at Appx. 6867.

<sup>24</sup> U.S. Census Bureau, *116th Congressional District Wall Maps* (2019), <https://www.census.gov/geographies/reference-maps/2019/geo/cong-dist-116-wall.html>; FEMA, U.S. Census Bureau TIGER Files—Accurate Detailed Street Base Maps, [https://hazards.fema.gov/femaportal/docs/7\\_TIGER.pdf](https://hazards.fema.gov/femaportal/docs/7_TIGER.pdf). For example, FEMA notes that as part of Census Bureau’s MAF/TIGER Accuracy Improvement Project—which improved the accuracy of road data using the 7.6-meter CE95 standard—the “realigned files [became] accurate enough to use as FEMA base map.” See FEMA, National Mapping Program Fact Sheet, Census MAF/TIGER Accuracy Improvement Project, [https://hazards.fema.gov/femaportal/docs/TIGER\\_2007.pdf](https://hazards.fema.gov/femaportal/docs/TIGER_2007.pdf); see also U.S. Census Bureau, About the 2010 Census TIGER/Line Shapefiles at 2-5 (2010), <https://www2.census.gov/geo/pdfs/maps-data/data/tiger/tgrshp2010/TGRSHP10SF1CH2.pdf>. Information at the census-block accuracy level is important to many parts of the Alaska Plan, which makes it more imperative that mapping data is at 7.6-meters accuracy.

<sup>25</sup> ATA 2017 Petition for Reconsideration at 2, 7-8, 16-17.

because the Commission only needed to know if middle mile facilities reached a particular community and was not needed for the ongoing assessment of performance commitments.<sup>26</sup> In support of ATA's Petition for Reconsideration of the 7.6-meter standard, GCI proposed a 1,000-meter accuracy standard as an alternative, arguing that such an accuracy standard is more appropriate for understanding communication infrastructure to a community.<sup>27</sup>

9. The Bureaus, in their February 2018 *Order on Reconsideration*, extended the filing deadline for the initial map data submission in order to give carriers extra time to meet the mapping requirements.<sup>28</sup> They also permitted carriers to provide an initial "estimate" of node and link locations at 50-meters of accuracy, 95% of the time, which allowed carriers to use generally available desktop software like Google Earth for the submission due on August 1, 2018.<sup>29</sup> The Bureaus made clear, however, that the lowered 50-meter accuracy standard would only be allowed for the first filing.<sup>30</sup> Carriers were required to update these estimates by the next deadline of March 1, 2019, at which time the 7.6-meter accuracy standard would apply.<sup>31</sup> Given that pre-existing information (e.g., roads and land features) on maps were *already* at 7.6 meters of accuracy, the Bureau found it was important to maintain consistency for all data on the maps.<sup>32</sup> The Bureaus explained:

The 7.6-meter standard is critical for obtaining a complete picture of facilities' locations in relation to other existing data. It is a commonly-used mapping standard for Commission high-cost data [to take into account the inherent error in census block boundary measurements], is necessary for the Bureaus to maintain compatibility with census boundary and road data for the census-block based Alaska Plan, and will allow the Bureau to fully identify duplicative facilities.<sup>33</sup>

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<sup>26</sup> ATA 2017 Petition for Reconsideration at 8.

<sup>27</sup> Letter from Julie A. Veach, Counsel, GCI, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 16-271, Attach. ATA Alternative Mapping Proposal at 1-2 (filed Dec. 14, 2017) (2017 ATA Alternative Mapping Proposal).

<sup>28</sup> In the *Order on Reconsideration*, the Bureaus extended the filing deadline from March 1, 2018, to July 2, 2018. *Order on Reconsideration*, 33 FCC Rcd at 2074, para. 16. The Bureaus subsequently extended the filing deadline from July 2, 2018, to August 1, 2018. *Extension of Deadline for Alaska Plan Carriers Filing Middle-Mile Fiber and Microwave Networks Maps Pursuant To Section 54.316(a)(6)*, WC Docket No. 16-271, Public Notice, 33 FCC Rcd 6242, 6243 (2018).

<sup>29</sup> *Order on Reconsideration*, 33 FCC Rcd at 2076, para. 20, n.67 ("Google Earth is accurate up to 7.6 meters in many circumstances. However, in some cases, Google Earth may only be accurate up to 30-50 meters."). 50-meters accuracy was responsive to ATA's desire to rely on desktop mapping software. See ATA 2017 Petition for Reconsideration at 8. The Bureaus specifically rejected GCI's proposed alternative 1000-meter accuracy standard. *Order on Reconsideration*, 33 FCC Rcd at 2077, para. 23.

<sup>30</sup> *Id.* at 2076, para. 20. If a carrier already had fiber locations at the 7.6-meter accuracy standard, it was required to submit the more accurate data. *Id.* at 2076, 2081, 2084, 2087, para. 20.

<sup>31</sup> *Id.* at 2076, para. 20.

<sup>32</sup> For example, if a link appeared to connect a cell tower but actually connected to a nearby hospital, the area would not be served with fiber-based cell service. Commission staff would consider different options depending on whether the link connected to a hospital or cell site. *Id.* at 2072, paras. 9-10, n.42 (stating that fiber link deployments affect the Commission's assessment of carrier commitments). The accuracy standard also reduces cases where two links are duplicated on a map when only one link exists. *Cf. id.* at 2075-77, paras. 17-23 (rejecting a less accurate standard for the errors it would cause).

<sup>33</sup> *Order on Reconsideration*, 33 FCC Rcd at 2076, para. 21, n.71 (footnotes omitted). The Bureaus specifically noted the Census Bureau's use of the 7.6-meter accuracy standard. *Id.* at 2076, para. 21, n.71.



As noted above, neither ATA, GCI, nor any other party sought review of the *Order on Reconsideration* before the deadline for appeal expired on April 23, 2018. Consequently, as of April 23, 2018, all parties were on notice that the 7.6-meter accuracy standard would apply to the March 1, 2019 filing deadline.

10. Almost a year later, on February 6, 2019, and within a month of the deadline for filing more accurate maps, ATA requested a waiver of the 7.6-meter accuracy requirement for all land-based fiber links on behalf of its members.<sup>34</sup> While many of those members *already* had certified the locations of some or all of their land-based fiber links at the 7.6-meter accuracy level, ATA stated that obtaining accurate fiber locations was a “practical impossibility” and that Alaska carriers have no business reason to collect or retain records of the location of their fiber links at the 7.6-meter accuracy standard.<sup>35</sup> ATA conceded that “[i]n more densely populated areas like the larger villages . . . the locations of fiber will generally not be far off the 7.6-meter standard, given that [the carriers] know precisely where all the endpoints are, and fiber tends to run down established streets rights-of-way.”<sup>36</sup> It nonetheless argued that its members should not be required to identify the locations of *any* buried or aerial fiber at 7.6 meters of accuracy.

11. In the March 1, 2019, *Waiver Denial Order*, the Bureaus denied ATA’s petition for a blanket waiver of the accuracy requirement for land-based fiber links on behalf of all Alaska Plan participants.<sup>37</sup> The Bureaus noted that, at the time of the Order, over 50% of ATA members had “already certified in their initial filing to the 7.6-meter accuracy standard for some or all of their owned fiber links” and that “one member that originally filed estimates [i.e., at 50 meters accuracy] for all of its owned fiber links in 2018 recently submitted its 2019 filing within 7.6-meters of accuracy.”<sup>38</sup> The Bureaus concluded that ATA failed to show how the 7.6-meter accuracy standard would impose undue hardship or be inequitable for individual members or to explain how elimination or modification of the accuracy standard would lead to more effective implementation of overall policy, as the waiver standard requires.<sup>39</sup>

12. In the AFR, GCI seeks to reverse the *Waiver Denial Order* and contends that it “contains factual errors, goes against established Commission precedent for waivers filed by trade associations, lacks a cost-benefit analysis, and reflects the fact that no valid purpose has ever been expressed for a location accuracy standard as strict as 7.6 meters.”<sup>40</sup> GCI also argues that the Commission has provided no guidance to the Bureaus on how to evaluate a waiver of the 7.6-meter accuracy requirement and that

<sup>34</sup> Petition for Limited Waiver of Alaska Telecom Association to Permit Commonly Accepted Industry Levels of Spatial Accuracy for Middle Mile Fiber Route Mapping, WC Docket No. 16-271, at 1 (filed on Feb. 6, 2019), <https://ecfsapi.fcc.gov/file/10207959131027/2018.02.06%20ATA%20Mapping%20Waiver%20FINAL.pdf> (ATA Waiver Petition). The ATA Waiver Petition states that carriers “will report to within 7.6-meters [accuracy] the location of nodes that touch the fiber.” *Id.* at 8.

<sup>35</sup> *Id.* at 6. In a supplemental filing ten days before the March 2019 deadline, ATA stated that “[t]he affected ATA members have reviewed their available data and are in a position to report the location of their buried and aerial fiber links to within 50 meters and certify that the information is accurate to an 80% confidence level.” Letter from Christine O’Connor, Executive Director, Alaska Telecom Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 16-271 (filed Feb. 19, 2019) (ATA Supplemental Letter).

<sup>36</sup> ATA Waiver Petition at 10. ATA argued that “[t]he only way to produce a 7.6 meter accurate ‘link’ dataset for all fiber paths for which the required information does not yet exist would be to physically walk the length of buried fiber and trace the signal above ground. . . .” *Id.* at 7. To justify a lower accuracy threshold for locations of aerial fiber, ATA stated that “[p]oles can be obscured by cloud cover, leaves, and shadows. . . .” *Id.*

<sup>37</sup> *Waiver Denial Order*, 34 FCC Rcd at 1047-48, paras. 7-9.

<sup>38</sup> *Id.* at 1047, para. 8.

<sup>39</sup> *Id.* The *Waiver Denial Order* also observed that the ATA Waiver Petition was filed just weeks before a deadline that ATA members had known about for over a year, and that an alternative accuracy proposal of 50 meters with 80% confidence was not filed until 10 days before the deadline. *Id.* at 1048, para. 10.

<sup>40</sup> GCI AFR at 1.

the waiver request therefore raised a novel policy question that the Bureaus could not address using delegated authority.<sup>41</sup> GCI requests that the Commission “grant the waiver in full or to the extent needed to permit GCI to certify its buried and aerial fiber locations to 50 meters with 80 percent confidence.”<sup>42</sup>

### III. DISCUSSION

13. We deny the AFR and affirm the denial of ATA’s petition for a blanket waiver of the 7.6-meter accuracy requirement because GCI has not demonstrated that a waiver is appropriate under section 1.3 of the Commission’s rules. In analyzing an application for review, the Commission considers, among other things, whether the order “is in conflict with statute, regulation, case precedent, or established Commission policy” and whether the order contains “[a]n erroneous finding as to an important or material question of fact.”<sup>43</sup> Section 1.3 provides that Commission rules may be waived only “for good cause shown.”<sup>44</sup> To show good cause, a waiver request “faces a high hurdle even at the starting gate,”<sup>45</sup> and it must demonstrate that (1) “special circumstances warrant a deviation from the general rule”; and (2) “such deviation serves the public interest.”<sup>46</sup>

14. Many of the arguments in the AFR do not address the question of whether the Bureaus properly denied ATA’s waiver request,<sup>47</sup> but instead repeat arguments made by ATA in its October 10, 2017 Petition for Reconsideration, which was resolved by the *2018 Order on Reconsideration*.<sup>48</sup> The Bureaus issued their decision to require mapping data at the 7.6-meter standard in the *Order on Reconsideration*, and no parties sought further review of that decision. As a result, the justifications for adopting the 7.6-meter standard are not salient to resolving the AFR.

15. GCI has not demonstrated any special circumstances that warrant a deviation from the 7.6-meter accuracy standard. Specifically, the record contains nothing to suggest that GCI made any effort to accurately report the locations of its land-based fiber.<sup>49</sup> In fact, since the 7.6-meter accuracy standard was first announced in September 2017, GCI has not provided the location of a *single* land-based fiber link at 7.6 meters of accuracy even though GCI can easily report some locations, such as aerial fiber

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<sup>41</sup> GCI AFR at 7.

<sup>42</sup> *Id.* at 20.

<sup>43</sup> 47 CFR § 1.115(b)(2) (specifying the factors that warrant Commission consideration of the issues presented in an application for review of an action taken pursuant to delegated authority); *see also* 47 U.S.C. § 155(c)(4)-(7).

<sup>44</sup> 47 CFR § 1.3 (“The provisions of this chapter may be suspended, revoked, amended, or waived for good cause shown, in whole or in part, at any time by the Commission, subject to the provisions of the Administrative Procedure Act and the provisions of this chapter.”).

<sup>45</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969).

<sup>46</sup> *Ne. Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *see WAIT Radio*, 418 F.2d at 1157-58. GCI does not explain how having less accurate maps serves the public interest. *See* GCI AFR.

<sup>47</sup> 47 CFR § 1.3; *see Application of Red Hot Radio, Inc.*, Memorandum Opinion and Order, 19 FCC Rcd 6737, 6745, para. 17, n.63 (2004) (noting that “the burden is on the Applicant to set forth fully its argument and all underlying relevant facts in the application for review”).

<sup>48</sup> *See Order on Reconsideration*, 33 FCC Rcd at 2076-77, para. 21 (“We reject ATA’s contention that information at the 7.6-meter level of accuracy is not necessary for the purposes of the map collection.”); *see also* GCI AFR at 1 (arguing “no valid purpose has ever been expressed for a location accuracy standard as strict as 7.6 meters”).

<sup>49</sup> *See Section 68.4(A) of the Commission’s Rules Governing Hearing Aid-Compatible Telephones*, WT Docket No. 01-309, Order, 23 FCC Rcd 3352, 3364-65, para. 22 (2008) (denying a waiver request by petitioners that failed to make a good faith effort to meet the requirement from which they sought relief); *Revision of the Commission’s Rules to Ensure Compatibility with the Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, Order, 22 FCC Rcd 8927, 8928, para. 3 (2007) (denying a waiver request where Petitioner failed to demonstrate a good faith effort to comply with the requirement).

links in urban areas (which can be identified visually or through photographs) or links built after the requirement was announced in 2017. In contrast to GCI, smaller providers have certified 7.6-meter-accurate fiber locations where possible. Specifically, at the time of the Bureaus' *Waiver Denial Order*, over 50% of ATA members had "already certified in their initial filing to the 7.6-meter accuracy standard for some or all of their owned fiber links" and "one member that originally filed estimates [i.e., at 50 meters accuracy] for all of its owned fiber links in 2018 recently submitted its 2019 filing within 7.6-meters of accuracy."<sup>50</sup>

16. GCI argues that the *Waiver Denial Order* should be reversed because the Bureaus did not undertake a formal cost-benefit analysis of the 7.6-meter accuracy standard.<sup>51</sup> While we note that—in weighing the costs and benefits of the 7.6-meter standard—the Bureaus concluded that the overall benefit of the data accuracy requirements outweighs any burden on carriers,<sup>52</sup> that *Order on Reconsideration* has become final and unreviewable. The question here is very different: whether ATA met the standard under section 1.3 of the Commission's rules for obtaining a waiver, which requires demonstrating good cause for waiving the accuracy standard and is a "high hurdle" as described in *WAIT Radio*.<sup>53</sup>

17. For GCI to repeat arguments about the costs of a 7.6-meter standard compared to its benefits from the 2017 Petition for Reconsideration and earlier-filed PRA Comments does not demonstrate error in the Bureaus' *Waiver Denial Order* issued a year later, nor is it a compelling reason to grant the AFR.<sup>54</sup> Any carrier that wished to challenge the 7.6-meter accuracy requirement could have appealed the *Order on Reconsideration* to the full Commission by April 23, 2018—more than a year and a half ago. GCI chose not to do so, even though it fully participated in the earlier proceeding in which it argued for an alternative 1,000-meter accuracy standard.<sup>55</sup> GCI's attempt to do so now, in the guise of an AFR challenging a waiver denial, is nothing more than an attempt to seek review of the *Order on Reconsideration* well beyond the deadline allowed under the Commission's rules and precedent as set forth in *WAIT Radio*.

18. GCI asserts that the *Waiver Denial Order* should be reversed because the Bureaus factually erred by finding that the cost information submitted in the ATA Waiver Petition did not show

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<sup>50</sup> See *supra* note 11; *Waiver Denial Order*, 34 FCC Rcd at 1047, para. 8.

<sup>51</sup> GCI AFR at 1-2 ("The Waiver Denial Order misses the core point of a cost-benefit analysis: even small costs are not justifiable and simply cause unwarranted economic loss when there are *no* identifiable benefits."). Other trade groups made similar arguments in support of GCI. See NTCA *Ex Parte* at 2-5 (discussing the cost-benefit arguments); NCTA & ACA *Ex Parte* at 1-2 (discussing cost-benefit analysis); ATA *Ex Parte* at 2 (discussing burdens of meeting the 7.6-meter standard); WTA *Ex Parte* at 2-5 (discussing the lack of benefits and cost-benefit analysis as well as the burdens of the 7.6-meter requirement).

<sup>52</sup> *Order on Reconsideration*, 33 FCC Rcd at 2075, para. 22 ("[W]e reject ATA's argument that the burden of the 7.6-meter standard outweighs the benefit . . ."); see also GCI AFR at 9 (arguing that the cost-benefit analysis from the 2018 *Order on Reconsideration* was insufficient).

<sup>53</sup> *WAIT Radio*, 418 F.2d at 1157-58 (stating that a waiver applicant faces "a high hurdle even at the starting gate" based on the presumption of regularity when an agency acts "in reliance on an established and tested agency rule").

<sup>54</sup> Compare GCI AFR at 1-2, 9, 15-17 (arguing against 7.6-meter accuracy requirement itself) with ATA 2017 Petition for Reconsideration at 2, 8, 10, 13-16 (same); *Order on Reconsideration*, 33 FCC Rcd at 2076-77, paras. 17-23 (upholding the 7.6-meter accuracy standard). All costs presented through the Paperwork Reduction Act process had been fully made by the time the Bureaus adopted the *Order on Reconsideration*. The *Order on Reconsideration* notes the costs presented by ATA. *Order on Reconsideration*, 33 FCC Rcd at 2077, nn.74-75 (citing ATA 30-Day PRA Comments); see also ATA 30-Day PRA Comments at 20 (filed Jan. 11, 2018 and including the cost to record fiber spans to within 7.6 meters in populated areas).

<sup>55</sup> For example, the 1,000-meter-accuracy standard counterproposal was filed into the record by GCI's counsel. See 2017 ATA Alternative Mapping Proposal.



that the 7.6-meter accuracy requirement is an undue burden as applied to land-based fiber.<sup>56</sup> GCI argues that the Bureaus ignored the additional costs that would be incurred if it manually collected information on its land-based fiber.<sup>57</sup>

19. GCI, however, has never provided facts to establish the cost of manually collecting data on the 2,500 miles of land-based fiber to justify its waiver request.<sup>58</sup> Although GCI provided data on the staff hours and money it already had incurred to gather and prepare data for the filing it made in March 2019, it never quantified the additional time and cost that it would incur to accurately map its land-based fiber, nor did it try to explain how the 2,000 hours and \$265,000 it claims to have spent on data collection could be extrapolated to estimate the total cost of complying with the 7.6-meter accuracy standard.<sup>59</sup> In fact, the Bureaus considered carriers' time and money when denying the ATA Waiver Petition. Specifically, while the declarations attached to the petition broke down costs by particular carriers, the *Waiver Denial Order* explained that ATA "fail[ed] to show any hardship on any specific member or that it is infeasible for any specific member to comply with the accuracy requirement."<sup>60</sup> The *Waiver Denial Order* concluded that ATA, of which GCI is a member, "provide[d] no detailed information on the level of accuracy of the network data that its other members possess," nor did ATA demonstrate how the standard "would be inequitable for individual members."<sup>61</sup>

20. Even if it had shown how its facts or arguments not previously presented to the Commission in the context of the ATA waiver request met the standard required by the Commission's rules,<sup>62</sup> which it has not, GCI does not otherwise show that complying with the 7.6-meter accuracy standard would amount to an undue hardship relative to its resources<sup>63</sup> or that meeting the requirement is

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<sup>56</sup> GCI AFR at 10-13, 15-16.

<sup>57</sup> *Id.* at 11-12. GCI states that the *Waiver Denial Order* mischaracterized the cost information that GCI provided to the Bureau because \$265,000 is how much was spent to date, not the sum total, and does not include the cost to walk 2500 miles to gather fiber data with handheld devices. GCI AFR at 11-12. GCI's claim is another collateral attack on the validity of the 7.6-meter accuracy standard resolved by the unchallenged *Order on Reconsideration*.

<sup>58</sup> See generally GCI AFR.

<sup>59</sup> See *id.* at 10-13 (discussing costs but providing no cost estimates for compliance going forward); *Waiver Denial Order*, 34 FCC Rcd at 1047, para. 8 (denying the waiver petition, in part, for not showing undue hardship, despite reciting costs already incurred); 47 CFR § 1.115(b)(2)(iv). In the ATA 2017 Petition for Reconsideration, GCI provided some data on the costs of collecting mapping data. However, that cost data was not submitted as part of the waiver proceeding. Even if it were submitted in this proceeding, the data is outdated—it is from October 2017—and is overly broad (i.e., is not limited to land-based fiber). ATA 2017 Petition for Reconsideration at 14-16, Attach. 1 at 1-2.

<sup>60</sup> *Waiver Denial Order*, 34 FCC Rcd at 1047, para. 8 (emphasis added).

<sup>61</sup> *Id.* at 1047, paras. 7-8.

<sup>62</sup> See 47 CFR § 1.115.

<sup>63</sup> See *Wireless Emergency Alerts*, PS Docket Nos. 15-91, 15-94, Order on Reconsideration, 32 FCC Rcd 9621, 9625, para. 10 (2017) (*WEA Order on Reconsideration*) (granting "18 months of relief to smaller, regional operators—specifically, all Participating CMS Providers other than the largest five—so that they will have additional time to deploy network upgrades and learn from the deployment experiences of the largest Participating CMS Providers . . ."), cited by GCI AFR at 18 n.51 on other grounds. Cf. *Alaska Plan Order*, 31 FCC Rcd at 10173, para. 103 (placing additional requirements on wireless participants receiving \$5 million or more in annual funding); *Revision of Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, Order to Stay, 17 FCC Rcd 14841, 14846, para. 19 (2002) ("Because the larger non-nationwide carriers have greater resources and can obtain location technologies in a shorter time frame than the very small carriers, we find it appropriate to distinguish between mid-sized and small carriers (creating "Tier II" and "Tier III" carriers, respectively) in granting relief from our Phase II rules.").

infeasible.<sup>64</sup> In that context, while GCI claims to have spent \$265,000 to comply with the accuracy standard for its nodes and will need to spend more to accurately report its ground-based fiber links, we find that GCI has failed to demonstrate a particularized burden that would warrant a waiver of the accurate reporting requirement based on generalized burden claims.<sup>65</sup> We note that larger providers have the resources to meet their commensurately greater compliance requirements, so GCI's argument that it has more fiber than "all the Alaska Plan participants combined," by itself does not compel granting a waiver.<sup>66</sup>

21. GCI argues that the Bureaus erred because "the *Waiver Denial Order* confuses the availability of some data on fiber locations [in densely populated areas] with the ability to certify accuracy."<sup>67</sup> We disagree with such a reading of the order. GCI acknowledges that "location data for fiber in more densely populated areas are more likely to be accurate to 7.6 meters."<sup>68</sup> The *Waiver Denial Order* used this point to note that a blanket waiver of the 7.6-meter accuracy standard was inappropriate because it was overly broad and "fail[ed] to differentiate the burden of [reporting fiber locations] deployed at different times and different places,"<sup>69</sup> without accounting for "situations where relief is neither necessary nor warranted."<sup>70</sup> The *Waiver Denial Order* recognized that "locations of fiber in [densely populated] areas will generally not be far off the 7.6-meter standard."<sup>71</sup> It does not say that all

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<sup>64</sup> See *Expansion of Online Public File Obligations*, MB Docket No. 14-127, Report and Order, 31 FCC Rcd 526, 544, para. 44 (2016) (noting technical inability as a ground for waiver); *Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process*, WT Docket No. 03-128, Report and Order, 20 FCC Rcd 1073, 1126, para. 146 (2004) (noting that "[t]o the extent it may be infeasible or unduly burdensome" to comply with the rule, the Commission would entertain waiver requests on a case-by-case basis); *Expanded Interconnection with Local Telephone Company Facilities*, CC Docket No. 91-141, Memorandum Opinion and Order, 9 FCC Rcd 5154, 5174, para. 65 (1994) (noting that where space is so limited in particular central offices that virtual collocation is infeasible, the Commission will entertain waiver requests). See, e.g., *Dumont Telephone Company and Universal Communications, Inc.*, Memorandum Opinion and Order, 13 FCC Rcd 17821, 17824-25, paras. 7-8 (ASD CCB 1998) (granting a waiver where cost studies were financially unworkable with companies serving a combined 1544 access lines); but see, e.g., *Citizens Utility Company Petition for Waiver of Section 36.154(d) of the Commission's Rules*, Memorandum Opinion and Order, 7 FCC Rcd 8656, 8657, para. 9 (CCB 1992) (merely having to repay \$2.2 million is insufficient to show undue hardship); *Rules and Policies Regarding Calling Number Identification Services—Caller ID*, CC Docket No. 91-281, Order on Reconsideration, 13 FCC Rcd 5771, 5775, para. 10 (1997) (rejecting waiver requests for insufficient evidence presented in support of the claim that the requirement was not economically feasible); *TCI Cablevision of Oklahoma, Inc.*, Memorandum Opinion and Order, 10 FCC Rcd 10339, 10341, para. 10 (1995) (petitioner arguing that the rules imposed an undue burden, but the petition was denied as TCI did not document or demonstrate that the rule would be "infeasible or cost-prohibitive").

<sup>65</sup> GCI AFR at 4, 12 (describing the need for survey equipment, travel to remote parts of Alaska, lodging and hiring consultants, in addition to an estimate of \$10,000 per village). GCI only describes the costs it incurred in connection with the March 2018 filing and argues that the Bureaus lacked delegated authority to deny the waiver. *Id.* at 10 n.28.

<sup>66</sup> *Waiver Denial Order*, 34 FCC Rcd at 1047, para. 8; GCI AFR at 13 (repeating the financial and labor costs without attempting to otherwise show how it is not feasible to comply with the requirement). GCI cites precedent that would support a waiver for smaller providers but does not explain why it should be granted a waiver when the smaller Alaska providers have met the accurate reporting requirement. GCI AFR at 4-5; see *WEA Order on Reconsideration*, 32 FCC Rcd at 9625, para. 11.

<sup>67</sup> GCI AFR at 15-16 (capitalization omitted).

<sup>68</sup> *Id.* at 16 (emphasis omitted).

<sup>69</sup> *Waiver Denial Order*, 34 FCC Rcd at 1047, para. 9.

<sup>70</sup> *Id.* at 1047, para. 7.

<sup>71</sup> *Id.* at 1048, para. 9 (emphasis added); ATA 2017 Petition for Reconsideration at 10.

fiber links in populated areas will be equally easy to accurately identify. Nor did it suggest that the ability to locate fiber more accurately in urban areas means that fiber located outside of urban areas will be equally easy to identify. GCI appears to argue that inaccuracy for some fiber links in urban areas excuses it from certifying to the accuracy of *any* fiber links. The existence of some inaccuracies, however, does not warrant granting GCI the blanket waiver it seeks, adequately identify special circumstances reserved for the extraordinary relief of a waiver, or satisfy the requirement of demonstrating how a waiver would satisfy the policies underlying the 7.6-meter standard. The possibility that some fiber links may not currently be accurate to 7.6 meters also does not justify GCI's lower accuracy standard of 50-meters of accuracy, 80% of the time, particularly when there is nothing in the record to show that using the alternative standard would eliminate inaccuracies.<sup>72</sup> The *Waiver Denial Order* determined that ATA failed to justify a blanket waiver for all land-based fiber links because some of those links could be certified to 7.6 meters of accuracy.<sup>73</sup> The Bureaus did not err by denying that request.

22. Finally, GCI contends that the Bureaus erred by concluding, in the *Waiver Denial Order*, that “it is not appropriate to grant a waiver to a group—such as a trade association—unless each individual member has shown that it suffers the same hardship with regard to strict application of the rule in question.”<sup>74</sup> GCI argues that the Commission “routinely grant[s] waiver requests filed by trade associations when those requests do not provide details on each individual member’s unique situation.”<sup>75</sup> As evidence for its position, GCI cites a Commission-level Order on Reconsideration in the wireless emergency alerts proceeding, which granted members of the Competitive Carriers Association (CCA) an extension of time to comply with new wireless emergency alert requirements, even though “CCA provided no information on the specific circumstances of individual members.”<sup>76</sup>

23. We find GCI’s argument unpersuasive. Regardless of whether a trade association has requested a waiver, the Commission does not favor blanket waivers and grants them only where good cause has been established.<sup>77</sup> In the case GCI cites, the Commission found that there was good cause to provide smaller providers with additional time to comply with the requirement at issue based on CCA’s showing that small and regional provider members had fewer resources, did not participate in the

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<sup>72</sup> See generally GCI AFR (providing no justification for the sought 50-meter, 80%-of-the-time counter standard); ATA Supplemental Letter (introducing the 50-meter, 80% -confidence counter standard without providing any supplementary information supporting it).

<sup>73</sup> *Waiver Denial Order*, 34 FCC Rcd at 1047, para. 9 (“we find that the Petition fails to differentiate the burden of meeting the obligation for fiber links deployed at different times and different places.”).

<sup>74</sup> GCI AFR at 18.

<sup>75</sup> *Id.*

<sup>76</sup> See *id.* at 18-19 (citing *WEA Order on Reconsideration*, 32 FCC Rcd 9621). GCI also contends that the July 1, 2014 Annual Access Charge Tariff Filings Order granted “additional time for all price cap LECs to file exogenous costs data in response to petition of USTelecom that provided only general reasons to justify a waiver.” GCI AFR at 18, n.51 (citing *July 1, 2014 Annual Access Charge Tariff Filings Order*, WC Docket No. 14-48, Order, 29 FCC Rcd 3133, 3135-36, para. 6 (2014)).

<sup>77</sup> See *Joint Petition of CTIA and the Rural Cellular Association for Suspension or Waiver of the Location-Capable Handset Penetration Deadline*, WT Docket No. 05-288, Order, 22 FCC Rcd 303, 304, 311, para. 2, 21 (2007) (stating that section 1.3 envisions a “case-by-case approach for analyzing the particular circumstances and factors presented by a [petitioner] seeking waiver relief” and rejecting CTIA and Rural Cellular Association request for a blanket waiver from the e911 location accuracy rules because it would diminish the efforts of those carriers that timely met the relevant deadline). See, e.g., *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order on Reconsideration, 23 FCC Rcd 7333, 7334-35, paras. 6-10 (2008) (denying a CTIA petition that sought extension of the relief granted to three Universal Service Fund contributors to all similarly-situated USF contributors, because CTIA has not provided new information sufficient to warrant extending relief regardless of the companies’ individual circumstances).

standards setting process, and needed additional time to review and implement necessary changes.<sup>78</sup> By contrast, in the *Waiver Denial Order*, the Bureaus found that ATA did not demonstrate how the 7.6-meter accuracy standard would impose undue hardship on its members or explain how elimination or modification of the accuracy standard would lead to more effective implementation of overall policy. Indeed, at the time of the Bureaus' *Waiver Denial Order*, over 50% of ATA members had "already certified in their initial filing to the 7.6-meter accuracy standard for some or all of their owned fiber links" and "one member that originally filed estimates [i.e., at 50 meters accuracy] for all of its owned fiber links in 2018 recently submitted its 2019 filing within 7.6 meters of accuracy."<sup>79</sup> Furthermore, as noted above, almost every other participating Alaska carrier has now indicated that it has fully complied with the 7.6-meter standard. Moreover, as one of the larger carriers operating in Alaska and the largest carrier receiving support under the Alaska Plan, GCI is also not similarly situated to the smaller carriers in the precedent on which it relies, and it has not demonstrated that any of the equities that it argues would warrant relief for such small carrier groups would apply to GCI.

#### IV. ORDERING CLAUSE

24. Accordingly, **IT IS ORDERED**, that pursuant to the authority contained in sections 1-5 and 254 of the Communications Act of 1934, as amended, 47 USC §§ 151-155 and 254, and sections 0.91, 0.131, 0.291, 0.331, 1.3, and 1.115 of the Commission's rules, 47 CFR §§ 0.91, 0.131, 0.291, 0.331, 1.3, and 1.115, that the application for review filed by General Communications Inc. **IS DENIED**.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

<sup>78</sup> *WEA Order on Reconsideration*, 32 FCC Rcd at 9625, para. 11.

<sup>79</sup> *See Waiver Denial Order*, 34 FCC Rcd at 1047, para. 8.